

FILED/ACCEPTED

MAR 11 2011

Federal Communications Commission
Office of the Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
EDDIE FLOYD)	MB Docket No. 10-157
)	NAL/Acct. No. 201041410018
Licensee of FM Translator Station K273AF,)	FRN: 0011733425
Carson City, Nevada)	
)	Facility ID No. 13529
EDDIE FLOYD)	
)	
and)	
)	
WILKS LICENSE COMPANY-RENO)	
LLC)	
)	
For Assignment of License of FM Translator)	File No. BALFT-20070904ACU
Station K273AF, Carson City, Nevada)	
)	
EDDIE FLOYD)	
)	
For Modification of License of FM Translator)	File No. BMLFT-20071218ABH
Station K273AF, Carson City, Nevada)	

To: Office of the Secretary

Attn: Chief, Audio Services Division, Media Bureau

ENFORCEMENT BUREAU'S COMMENTS ON
PETITION FOR EXTRAORDINARY RELIEF

1. On March 3, 2011, Eddie Floyd ("Floyd") submitted to the Chief, Audio Services Division, Media Bureau, an application for Commission consent to the assignment of license for

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the above-captioned station¹ accompanied by a Petition for Extraordinary Relief (“Petition”).² In his Petition, Floyd seeks to avail himself of the Commission’s *Second Thursday* doctrine.³ The Chief, Enforcement Bureau, a party in the above-captioned proceeding, by her attorneys, hereby submits comments on Floyd’s request for relief.

2. By way of background, on August 5, 2010, the Commission commenced the above-captioned hearing proceeding to determine ultimately whether Floyd is qualified to be and remain a Commission licensee and, as a consequence thereof, whether his license for FM Translator Station K273AF (“Station”) should be revoked.⁴ However, on December 3, 2010, the Presiding Judge stayed the captioned hearing proceeding to, among other things, allow Floyd, the subject of a bankruptcy proceeding, to seek approval from the United States Bankruptcy Court, District of Nevada, to assign the Station license and to submit a request for relief to the Media Bureau under the Commission’s *Second Thursday* doctrine.⁵

3. The *Second Thursday* doctrine is an exception to the general policy prohibiting the assignment of a station’s authorization by a licensee whose qualifications remain unresolved.⁶ Pursuant to this doctrine, the sale of a station may be permitted if the licensee whose qualifications are in question is in bankruptcy and “the individuals charged with

¹ The application, on FCC Form 345, seeks Commission consent to the assignment of license for FM Translator Station K273AF, Carson City, Nevada, from Floyd to The Evans Broadcast Company, Inc., File No. BALFT - 20110303AAJ.

² The Petition was formally filed with the Office of the Secretary on March 7, 2011.

³ See *Second Thursday Corp.*, 22 FCC 2d 515 (1970).

⁴ See *Eddie Floyd*, Order to Show Cause, Hearing Designation Order, and Notice of Apparent Liability for a Forfeiture, 51 Communications Reg. (P&F) 113 (2010). The hearing was predicated on Floyd’s apparent failure to disclose his felony conviction for money laundering in filings with the Commission.

⁵ *Order*, FCC 10M-21 (ALJ, rel. Dec. 3, 2010).

⁶ See *Jefferson Radio v. FCC*, 340 F.2d 781, 783 (DC Cir. 1964).

misconduct will have no part in the proposed operations and will either derive no benefits from favorable action on the applications or only a minor benefit which is outweighed by equitable considerations in favor of innocent creditors.”⁷ The doctrine is intended to accommodate the policies underlying federal bankruptcy law and those of the Communications Act.

4. In the instant case, Floyd’s Petition appears to be deficient. Floyd makes no representations in his Petition as to whether he will play a part in the proposed operations of the Station after it is sold. Floyd’s failure to affirmatively demonstrate that he will not participate in any way in the operation of the Station thus constitutes a material omission in Floyd’s request for extraordinary relief.⁸

5. Under the circumstances, the Enforcement Bureau does not believe that Floyd’s Petition, as filed, satisfies the requirements for *Second Thursday* relief. To the extent Floyd is

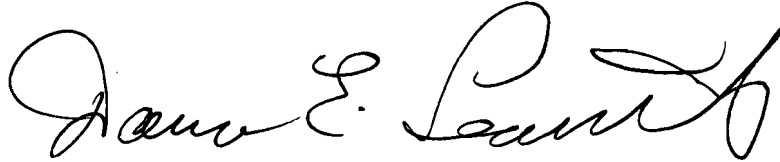
⁷ *Second Thursday Corp.*, 22 FCC at 516 ¶ 5.

⁸ See, e.g., *Family Broadcasting, Inc.*, Memorandum Opinion and Order, 25 FCC Rcd 7591, 7596 ¶ 19 (2010) (“the record unequivocally demonstrates that none of the individuals charged with misconduct . . . will have any role in operating the stations following the assignment” to another licensee); *MobileMedia Corporation*, Memorandum Opinion and Order, 14 FCC Rcd 8017, 8020, ¶ 11 (1999) (asserting that “none of alleged the wrongdoers would participate in the management or operation of the merged company”); *NewSouth Broadcasting, Inc.*, Order, 8 FCC Rcd 1272 (1993) (before granting *Second Thursday* relief, the Commission required petitioners to submit assurances, prepared in accordance with Section 1.16 of the Commission’s rules, that the licensee would have no involvement in the future operation of the stations to be transferred).

able to supplement his Petition with additional information that cures the deficiency referenced above, the Enforcement Bureau would be willing to file appropriate additional comments.⁹

Respectfully submitted,

P. Michele Ellison
Chief, Enforcement Bureau

A handwritten signature in black ink, appearing to read "Dana E. Leavitt", with a stylized flourish at the end.

Dana E. Leavitt
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March 11, 2011

⁹ On page 4 of his Petition, Floyd asserts that "all matters contained in MB Docket No. 10-157 should be terminated." The Enforcement Bureau notes the Presiding Judge, not the Media Bureau, retains jurisdiction over the captioned hearing proceeding. Thus, to the extent that the Petition seeks to have the Media Bureau terminate the hearing proceeding, such request is misplaced and should not be entertained. Any request by Floyd to terminate the hearing proceeding should, at the appropriate time, be directed to the Presiding Judge.

CERTIFICATE OF SERVICE

Ernestine Creech, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 11th day of March, 2011, sent by first class United States mail, or delivered by hand, copies of the foregoing "Enforcement Bureau's Comments on Petition for Extraordinary Relief" to:

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